

**BEFORE THE
FEDERAL COMMUNICATIONS Commission
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
Service Rules for the 698-746, 747-762 and)	WT Docket No. 06-150
777-792 MHz Bands)	
)	
Revision of the Commission's Rules to Ensure)	CC Docket No. 94-
102		
Compatibility with Enhanced 911 Emergency)	
Calling Systems)	
)	
Section 68.4(a) of the Commission's Rules)	WT Docket No. 01-
309		
Governing Hearing Aid-Compatible Telephones)	

COMMENTS OF C&W ENTERPRISES, INC.

C&W Enterprises, Inc. ("C&W"), hereby submits its comments to the Notice of Proposed Rulemaking in the above-referenced proceeding ("NPRM").¹ C&W is licensee of several Broadband Radio Service ("BRS") licenses and a Lower 700 MHz "C Block" license WPWU926, as well as lessee of various Educational Broadband Service ("EBS") licenses, which it is using to operate a video system and to provide data services in and around the San Angelo, Texas metropolitan area. C&W is also the winning bidder for CMA670-A in the Advanced Wireless Services ("AWS") auction that closed on September 18, 2006. C&W has provided data services, including VoIP, to the

¹ See In the Matter of Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, WT Docket No. 04-356, Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Section 68.4 of the Commission's Rules Governing Hearing Aid-Compatible Telephones, WT Docket No. 01-309, *Notice of Proposed Rule Making, Fourth Further Notice of Proposed Rule Making and Second Further Notice of Proposed Rulemaking*, FCC 06-114 (rel. Aug. 10, 2006), 71 Fed. Reg. 48506 (Aug. 21, 2006).

San Angelo metropolitan area since October, 2002, and currently serves approximately 1850 customers, which has been growing by almost 350 subscribers annually. It is also providing video services to approximately 2500 subscribers. The business is operated by family members who have a personal interest in serving their community and the outer-lying rural areas of San Angelo.

I. The Commission Should Auction the “C Block” Licenses in the Upper 700 MHz in CMA-sized Licenses

Local entities such as C&W would not be able to participate in the Upper 700 MHz auction if the licenses are to be auctioned by Economic Area Groupings (EAGs). Such a license size covers too large an area for a smaller operator to develop and the cost of such licenses would deter smaller entities like C&W from entering such an auction. C&W has already acquired a Lower 700 MHz license and is interested in pursuing the accompanying Upper 700 MHz “C Block” license for its market as well, if the Commission would offer them in CMA-sized licenses. The pairing of the two licenses would provide it with both 11 MHz of contiguous spectrum and a separate 5 MHz block and 6 MHz block that would allow for various uses. Such spectrum groups would allow C&W to continue to provide the video and data services currently offered as well as to expand into other services as the equipment and technology become available.

By offering smaller CMA-sized licenses, such as those offered in the AWS auction, various small entities such as C&W are more likely to participate and to increase the revenues generated by such an auction, whereas if the Commission only offers EAG-sized licenses, only a mere

handful of bidders will be able to afford to participate.² The AWS auction indicated how many entities, particularly small businesses, are interested in acquiring spectrum for targeted markets, as over half of the bidders in this auction were designated entities.³ Certainly, the need for spectrum to provide broadband services by smaller entities was not satiated by this one auction. C&W exemplifies how even smaller businesses need spectrum if they are to competitively provide broadband services, as it did win a license in the AWS auction and holds a Lower 700 MHz license, but still desires to participate in the Upper 700 MHz auction if the license sizes are manageable.

C&W is also a good example of how a smaller business is able to deploy service to rural areas on a more expedited basis, further justifying the need for the Commission to offer smaller-sized licenses for the provision of broadband services. C&W was the second entity in the country to put services on its Lower 700 MHz license into operation just shortly after winning it. The time and expense necessary to provide such services over a larger area are much greater, and influence the winning bidder of such a license to focus on the provision of service to larger metropolitan areas before expanding into less populated areas, thereby delaying the provision of such services to those who need it most. Smaller entities like C&W which acquire smaller sized licenses are more likely to deploy service faster to the outerlying rural areas since they are attempting to cover a much smaller area than an EAG license holder and desire to reach as much of their service area as possible to recapture their investment as soon as possible.

² For example the AWS auction ended up generating \$13,700,267,150 with 104 winning bidders acquiring a total of 1,087 licenses. See Public Notice *Auction of Advanced Wireless Services Licenses Closes*, DA-06-1882 (released September 20, 2006).

³ Id.

II. The Commission Should Retain the Substantial Service Requirement

The Commission should retain a Substantial Service Requirement for all Part 27 licenses and should not differentiate between them by imposing different construction and operation requirements on different wireless services as many of these services are often used in conjunction with one another. For instance, C&W is currently operating BRS licenses, which are subject to substantial service requirements, as part of the same system that provides service over its Lower 700 MHz License. If the Commission were to impose a different set of requirements of operating and renewing different types of wireless licenses, this may compromise an operator's system since it has to meet two or more separate requirements even though it is using these different spectrum groups in to provide service through one system.

However, C&W supports the Commission's efforts to prevent the warehousing of spectrum by those who acquire it for speculative purposes rather than to deploy service. For this reason, C&W supports the Commission's implementation of a construction deadline together with a "Keep What you Use" rule for those situations in which a licensee does not deploy service on its spectrum within a particular timeframe to encourage licensees not to accumulate spectrum for any purpose other than to deploy service. Any spectrum that is recaptured by the Commission should be re-auctioned to the general public.

III. C&W Supports 15 Year License Terms

C&W encourages the Commission to consider providing similar 15 year renewal terms for those entities who do utilize the spectrum as intended. Such license lengths allow a smaller entity like C&W the security and time to allow it to both develop its services and to recoup its investment in both

purchasing its license and deploying services. This is particularly true where the services are being provided to rural areas, where recapturing costs and building a system are more time-consuming and costly with a slower return.

IV. The Power Limits for the Lower 700 MHz Spectrum Should Not Be Revised

C&W does not support revising the rules regarding operation of Lower 700 MHz spectrum. C&W currently operates its system in a super cell environment through which it is able to reach its entire service area from a single tower site. If the power limits for its Lower 700 MHz license were lowered, it would be forced to add towers at a great expense to continue to reach the outerlying portions of its service area. Such an action would force C&W to discontinue service on this spectrum due to the expense of continuing operations under these conditions. C&W is also concerned that the FCC is considering making such a change after it already purchased this license at auction, since it participated in the auction based on the expectation that the rules in place at the time of the auction would continue unabated.

C&W requests that the Commission consider its comments when enacting its rules in this proceeding and thanks it for its consideration in this important matter.

Respectfully submitted,

C&W Enterprises, Inc.

By /s/ John W. Jones, Jr.
John W. Jones, Jr.
CEO / President

September 29, 2006